



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 27, 1998

Mr. Phil Steven Kosub  
Soules & Wallace  
Frost Bank Tower  
100 W. Houston Street, Suite 1500  
San Antonio, Texas 78205-1457

OR98-1308

Dear Mr. Kosub:

You have asked whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115253.

The City of Selma (the "city"), which you represent, received a request from the city's police chief for a copy of a consultant's report.<sup>1</sup> You assert that the report is excepted from disclosure because it is not subject to the Open Records Act. Alternatively, you contend that the report is excepted from disclosure pursuant to section 552.111 of the Government Code. A copy of the consultant's report was submitted to this office for review.

We note initially that simply because this report was prepared by a consultant for the city does not keep the report from being subject to the Open Records Act. Section 552.002(a) defines the type of information that is subject to the Open Records Act as information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" (1) by a governmental body, or (2) for a governmental body and the governmental body either owns the information or has a right of access to the records. Pursuant to section 552.002(a), the consultant's report is subject to the Open Records Act. We will address your argument that the report, or portions of it, fall within an exception to disclosure under the Open Records Act.

Section 552.111 excepts from disclosure interagency or intraagency communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body. See *Texas Dep't. of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ); Open Records Decision No. 615 (1993) at 5. In Open Records Decision No. 615 (1993), we

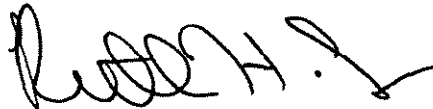
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<sup>1</sup>The police chief's letter states that he is seeking the report for management reasons, but we note that the city indicates that this is a public request for information under chapter 552 of the Government Code.

determined that in order to be excepted from disclosure, the advice, opinion, and recommendation must be related to policymaking functions of the governmental body rather than to decision-making concerning routine personnel and administrative matters. The report at issue concerns the city's overall structure and is related to the city's policymaking function. We have marked the advice, opinion, and recommendation portions of the report which are excepted from disclosure under section 552.111. The remainder of the report is not excepted from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 115253

Enclosures: Marked document

cc: Mr. Mark L. Riffe  
Chief of Police  
Selma Police Department  
9375 Corporate Drive  
Selma, Texas 78154  
(w/o enclosures)